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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,289	08/01/2005	Sasa Desic	P14895-US1	8982
27045	7590	07/10/2008		
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024				
EXAMINER				
NOONAN, WILLLOW W				
ART UNIT		PAPER NUMBER		
2146				
NOTIFICATION DATE		DELIVERY MODE		
07/10/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/519,289

**Applicant(s)**

DESIC ET AL.

**Examiner**

WILLOW NOONAN

**Art Unit**

2146

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28, 31-40 and 43-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28, 31-40 and 43-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The instant application having Application No. 10/519,289 has a total of 15 claims pending in the application; there are 2 independent claims and 13 dependent claims, all of which are ready for examination by the examiner.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 28, 31-40, and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Vaughan** (*Static performance of a divide-and-conquer information-distribution protocol supporting a load-balancing scheme*) in view of **Walsh** (U.S. Patent No. 6,233,601), **Dinker** (U.S. Patent App. Pub. No. 2004/0254984), and Applicant's admitted prior art.

Regarding claims 28 and 40, Vaughan teaches a method for managing the respective processing loads of a plurality of processors in a processor network. Vaughn teaches a first network management processor issuing a processing load information collection message to an adjacent processor. See Vaughan at p. 431, col. 2, paragraph 4 ("the token begins its circulation at a predetermined processor"). Vaughan teaches that adjacent processors add into the message their analyzed processing load

information and forward the message around the ring. See Vaughan at p. 431, col. 1, paragraph 3 ("each virtual rink is traversed by its own token whose purpose is to accumulate and disseminate information within the ring"). Vaughan teaches that the token returns to the first network management processor, which determines, on the basis of the processing load information of the processors stored in said processing load information collection message, a load balancing technique for load distribution among the processors in said processor network. See Vaughan at p. 431, col. 2, paragraph 5 ("after the token completes a circuit, a preliminary decision can be made as to the identity of the maximally loaded and minimally loaded processors ... [for use in making] job transfer [decisions]"). Vaughan teaches that said processing load information collection message is a first processing load exploration program unit, wherein said processing load exploration program unit analyses the respective processing load of each of the processors to which it is forwarded and stores corresponding processing load information. See Vaughan at p. 431, col. 1, paragraph 3 ("each virtual rink is traversed by its own token whose purpose is to accumulate and disseminate information within the ring"); Vaughan at p. 431, col. 2, paragraph 5 ("after the token completes a circuit, a preliminary decision can be made as to the identity of the maximally loaded and minimally loaded processors ... [for use in making] job transfer [decisions]").

Vaughan does not teach that the token passed around the ring may constitute a load balancing *program* containing executable code. However, Walsh teaches that it is well known to pass a mobile agent, capable of being executed and storing data, among

servers in a network according to an itinerary. *See* Walsh, *Abstract*. It would have been obvious to implement Vaughan's method as mobile agent according to Walsh because both systems describe a system for managing mobile objects in a computer network.

Vaughan does not teach that said that the determination by said first network management processor of said load balancing technique comprises determining a respective load balancing method for each of said processors. However, Dinker teaches that it is well known to select a load balancing technique for *each* of the processors in a cluster. *See* Dinker at p. 3, paragraph 37 ("Serviceability module is configured to perform a serviceability update. A serviceability update includes a cluster configuration, administration, and/or serviceability task. ... Example serviceability updates include those involved in: ... select a load balancing algorithm to be used within the cluster"). It would have been obvious to one of ordinary skill to use Dinker's technique in Vaughan's system because Dinker teaches that the disclosed technique is useful for updating nodes within a cluster. *See* Dinker at p. 1, paragraph 6 ("Accordingly, it is desirable to provide a new technique for updating nodes within a cluster").

Regarding claims 31-33 and 43-44, Vaughan teaches that the first processor may send a load balancing activation message to another processor for activating the load balancing method. *See* Vaughan at p. 432, paragraph 1 (describing "indicator" message which "contains all the information necessary to make the final load-balancing decision").

Regarding claim 34, Vaughan teaches determining when the token has a reaches a network management processor. See Vaughan at p. 431, col. 2, paragraph 4 (describing the distinguished role of the token-origin processor).

Regarding claims 35, 36, 45, and 46, Vaughan teaches a predetermined order and grouping of processors. See Vaughan at p. 431, fig. 1.

Regarding claims 37 and 38, Vaughan teaches parallelism in the system. See Vaughan at p. 431, col. 2, paragraph 3 ("parallelism is achieved in this organisation by multiple rings which function concurrently").

Regarding claim 39, Vaughan describes a multi-tiered architecture where each sub-ring comprises a node of larger ring. See Vaughan at p. 431, fig. 1; Vaughan at p. 431, col. 2, paragraph 2 (describing the multi-tiered architecture).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2146

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willow Noonan whose telephone number is (571) 270-1322. The examiner can normally be reached on Monday through Friday, 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Willow Noonan/

Examiner, Art Unit 2146

Art Unit: 2146

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2146